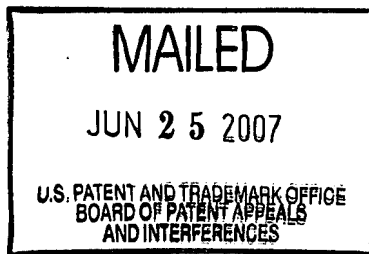


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte JOHN O. LAMPING,
RAMANA B. RAO
and
TICHOMIR G. TENEV

Application 09/124,805

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on July 28, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that an Appeal Brief was filed on November 7, 2005.

37 CFR § 41.37(c)(1)(v) (2005) reads as follows:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

....

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The “Summary of claimed subject matter” appearing on pages 2-11 of the Appeal Brief filed November 7, 2005 is deficient because it does not map the claimed invention to ALL of the independent claims. Correction is required.

It should be noted that a Reply Brief and an Amendment canceling claims 17-28 were filed on June 1, 2006. The examiner noted the Reply Brief on July 18, 2006 and included an initialed copy of the first page of the Amendment with the notation "Please enter the amendment of 6/1/2006." Since the Amendment was entered, the "Status of claims," "Status of amendments," "Grounds of rejection to be reviewed on appeal," and "Argument" sections appearing in the Appeal Brief filed November 7, 2005 need to be updated. An updated "Claims appendix" should also be included even though it was submitted with the Amendment filed June 1, 2006. Please note that the "Grouping of Claims" section is no longer necessary. See 37 CFR § 41.37(c)(1).

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for notification to appellants to submit an amended Appeal Brief which corrects the "Status of claims," "Status of amendments," "Summary of Claimed Subject Matter," "Grounds of rejection to be reviewed on appeal," "Argument" and "Claims appendix";
- 2) for consideration of the amended Appeal Brief; and

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3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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